



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

United States Coast Guard

33 CFR Part 147

[Docket No. USCG-2015-0248]

RIN 1625-AA00

Safety Zone; NOBLE DISCOVERER, Outer Continental Shelf
Drillship, Chukchi Sea, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone that extends 500 meters from the outer edge of the DRILLSHIP NOBLE DISCOVERER. This safety zone will be in effect both when the DRILLSHIP NOBLE DISCOVERER is anchored and when deploying and recovering moorings. This safety zone will be in effect when the DRILLSHIP NOBLE DISCOVERER is on location in order to drill exploratory wells at various prospects located in the Chukchi Sea Outer Continental Shelf, Alaska, from 12:01 a.m. on July 1, 2015 through 11:59 p.m. on October 31, 2015. The purpose of the temporary safety zone is to protect the drillship from vessels operating outside the normal shipping channels and fairways.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until October 31, 2015. For the purposes of enforcement, actual notice will be used from July 1, 2015 to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket number USCG-2015-0248. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LCDR Jason Boyle, Seventeenth Coast Guard District (dpi); telephone 907-463-2821, Jason.t.boyle@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register

A. Regulatory History and Information

The Coast Guard published an NPRM for this safety zone on May 4, 2015 (80 FR 25256). Two comments from the public were received during the 30 day comment period. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to ongoing drilling operations, delaying the implementation of this safety zone is impracticable and would increase the possibility of an allision in the Chukchi Sea.

B. Basis and Purpose

The Coast Guard is establishing a temporary safety zone around the DRILLSHIP NOBLE DISCOVERER while anchored or deploying and recovering moorings on location in order to drill exploratory wells in several prospects located in the Chukchi Sea during the 2015 drilling season.

The request for the temporary safety zone was made by Shell Exploration & Production Company due to safety concerns for both the personnel aboard the DRILLSHIP NOBLE DISCOVERER and the environment. Shell Exploration & Production Company indicated that it is highly likely that any allision or inability to identify, monitor or mitigate any risks or threats, including

ice-related hazards that might be encountered, may result in a catastrophic event. Incursions into the safety zone by unapproved vessels could degrade the ability to monitor and mitigate such risks. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to: (1) The level of shipping activity around the operation; (2) safety concerns for personnel aboard the vessel; (3) concerns for the environment given the sensitivity of the environmental and the importance of fishing and hunting to the indigenous population; (4) the lack of any established shipping fairways, and fueling and supply storage/operations which increase the likelihood that an allision would result in a catastrophic event; (5) the recent and potential future maritime traffic in the vicinity of the proposed areas; (6) the types of vessels navigating in the vicinity of the proposed area; (7) the structural configuration of the vessel, and (8) the need to allow for lawful demonstrations without endangering the safe operation of the vessel. For any group intending to conduct lawful demonstrations in the vicinity of the rig, these demonstrations must be conducted outside the safety zone.

Results from a thorough and comprehensive examination of the criteria, IMO guidelines, and existing regulations warrant the establishment of the temporary safety zone. The regulation

significantly reduces the threat of allisions that could result in oil spills, and other releases. Furthermore, the regulation increases the safety of life, property, and the environment in the Chukchi Sea by prohibiting entry into the zone unless specifically authorized by the Commander, Seventeenth Coast Guard District, or a designated representative. Due to the remote location and the need to protect the environment, the Coast Guard may use criminal sanctions to enforce the safety zone as appropriate.

The temporary safety zone will be around the DRILLSHIP NOBLE DISCOVERER while anchored or deploying and recovering moorings on location in order to drill exploratory wells in various locations in the Chukchi Sea Outer Continental Shelf, Alaska during the 2015 timeframe.

Shell Exploration & Production Company has proposed and received permits for drill sites within the Burger prospects, Chukchi Sea, Alaska.

During the 2015 timeframe, Shell Exploration & Production Company has proposed drilling exploration wells at various Chukchi Sea prospects depending on favorable ice conditions, weather, sea state, and any other pertinent factors. Each of these drill sites will be permitted for drilling in 2015 to allow for operational flexibility in the event sea ice conditions prevent access to one of the locations. The number

of actual wells that will be drilled will depend on ice conditions and the length of time available for the 2015 drilling season. The predicted "average" drilling season, constrained by prevailing ice conditions and regulatory restrictions, is long enough for two to three typical exploration wells to be drilled.

The actual order of drilling activities will be controlled by an interplay between actual ice conditions immediately prior to a rig move, ice forecasts, any regulatory restrictions with respect to the dates of allowed operating windows, whether the planned drilling activity involves only drilling the shallow non-objective section or penetrating potential hydrocarbon zones, the availability of permitted sites having approved shallow hazards clearance, the anticipated duration of each contemplated drilling activity, the results of preceding wells and Marine Mammal Monitoring and Mitigation plan requirements.

All planned exploration drilling in the identified lease will be conducted with the DRILLSHIP NOBLE DISCOVERER.

The DRILLSHIP NOBLE DISCOVERER has a "persons on board" capacity of 124, and it is expected to be at capacity for most of its operating period. The DRILLSHIP NOBLE DISCOVERER's personnel will include its crew, as well as Shell employees, third party contractors, Alaska Native Marine Mammal Observers

and possibly Bureau of Safety and Environmental Enforcement (BSEE) personnel.

While conducting exploration drilling operations, the DRILLSHIP NOBLE DISCOVERER will be anchored using an anchoring system consisting of an 8-point anchored mooring spread attached to the onboard turret and could have a maximum anchor radius of 3,600 ft (1,100 m). The center point of the DRILLSHIP NOBLE DISCOVERER will be positioned within the prospect location in the Chukchi Sea.

The DRILLSHIP NOBLE DISCOVERER will move into the Chukchi Sea on or about July 1, 2015 and onto a prospect location when ice allows. Drilling will conclude on or before October 31, 2015. The drillship and support vessels will depart the Chukchi Sea at the conclusion of the 2015 drilling season.

C. Discussion of Comments, Changes, and the Final Rule

One comment from the public was received during the 30 day comment period expressing concern that the safety zone was larger than necessary and that it could unnecessary impede vessel movement. The comment proposed a smaller safety zone of 50 meters with a "no wake" restriction extending 250 meters. The Coast Guard considered this comment, but has decided not to adopt the commenter's suggestion. Considering the size of the ocean, we do not believe a 500-meter safety zone presents an unreasonable restriction of movement. Furthermore, considering

the size and speed of the drillship and associated drilling operations, we believe that a 50-meter zone would not ensure the safety of boaters in the area. Finally, we note that a "no-wake zone" would not have any effect in protecting boaters from the dangerous conditions caused by drilling operations.

Additionally, one commenter questioned whether the safety zone applied when the vessel is moving. It would apply during that time, for the safety of other vessels. The commenter also suggested that the safety zone should not extend 500 meters past the mooring. For reasons described below, we agree with the commenter's suggestion in this regard.

The Coast Guard made one change to the proposed rule. The original proposed rule had called for safety zones at every point where the vessel's mooring spread intersected with the ocean's surface. After consideration of the comments and additional clarification from Shell Exploration & Production Company, the Coast Guard determined that the mooring system utilized on this vessel is configured such that its lines will not break the ocean's surface beyond the vessel's outer edge. Therefore, the Coast Guard deleted reference to such additional safety zones and corresponding marking buoys from the final rule.

The temporary safety zone will encompass the area that extends 500 meters from the outer edge of the DRILLSHIP NOBLE

DISCOVERER. This safety zone will be in effect both when the DRILLSHIP NOBLE DISCOVERER is anchored and when deploying and recovering moorings. No vessel would be allowed to enter or remain in this proposed safety zone except the following: An attending vessel or a vessel authorized by the Commander, Seventeenth Coast Guard District or a designated representative. They may be contacted on VHF-FM Channel 13 or 16 or by telephone at 907-463-2000.

D. Regulatory Analyses

The Coast Guard developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or Section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

This rule is not a significant regulatory action due to the location of the DRILLSHIP NOBLE DISCOVERER on the Outer

Continental Shelf and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone without incurring additional costs.

2. Small Entities

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612), the Coast Guard has considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Burger Prospects of the Chukchi Sea.

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will enforce a safety zone around a drilling unit facility that is in areas of the Chukchi Sea not frequented by vessel traffic and is not in close proximity to a

safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Jason Boyle, Coast Guard Seventeenth District, Office of Prevention; telephone 907-463-2821, Jason.t.boyle@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000.00 (adjusted for inflation) or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

The Coast Guard analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant's Instruction.

List of Subjects in 33 CFR Part 147

Continental Shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 147 as follows:

PART 147--SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

2. Add § 147.T17-0248 to read as follows:

§ 147.T17-0248 Safety Zone; DRILLSHIP NOBLE DISCOVERER, Outer Continental Shelf Drillship, Chukchi Sea, Alaska.

(a) Description. The DRILLSHIP NOBLE DISCOVERER will be engaged in exploratory drilling operations at various locations in the Chukchi Sea from July 1, 2015 through October 31, 2015. The area that extends 500 meters from the outer edge of the DRILLSHIP NOBLE DISCOVERER is a safety zone. Lawful demonstrations may be conducted outside of the safety zone.

(b) Regulation. No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel; or

(2) A vessel authorized by the Commander,

Seventeenth Coast Guard District, or a designated representative.

Dated: June 17, 2015

Daniel B. Abel,
Rear Admiral, U.S. Coast Guard,
Commander, Seventeenth Coast Guard District.

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